

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7406

BILL NUMBER: HB 1181

DATE PREPARED: Apr 6, 2001

BILL AMENDED: Apr 5, 2001

SUBJECT: IURC Enforcement Authority.

FISCAL ANALYST: John Parkey

PHONE NUMBER: 232-9854

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: (Amended) *Civil Penalties:* This bill gives the Indiana Utility Regulatory Commission (IURC) authority to impose a civil penalty of not more than \$2,000 if a public utility (1) has failed to meet the same standard of service established by the IURC by rule in effect on January 1, 2001, or (2) has willfully failed to comply with a rate or service requirement of a final and unappealable order of the Commission. The bill requires the IURC to consider certain factors when imposing civil penalties. It provides that commercial radio service, rural electric membership corporations, and rural telephone cooperatives are exempt from IURC authority to impose civil penalties. The bill requires the Attorney General to bring an action in a court of jurisdiction to enforce a civil penalty.

Merchant Power Plants: The bill defines "merchant power plant". It also provides that merchant power plants are subject to the jurisdiction of the Commission.

Effective Date: (Amended) Upon Passage; July 1, 2001.

Explanation of State Expenditures: (Revised) *Civil Penalties:* This proposal extends the IURC's enforcement power over certain regulated Indiana utilities. The proposal would give the IURC the ability to assess civil penalties of up to \$2,000 when a utility violates or fails to reach a defined standard of service. While this bill would make more options available to the IURC in the event of a violation or failure, it should not require any additional procedures or expenditures for the Commission.

The proposal requires the Attorney General to bring an action in a court that has jurisdiction over the noncompliant utility. If more legal actions are sought, the administrative burden of the Attorney General's office may increase.

Merchant Power Plants: This provision explicitly gives the IURC jurisdiction over merchant power plants. This provision clarifies current law and is not expected to have a significant fiscal impact on the

Commission.

Explanation of State Revenues: (Revised) This bill would allow the IURC to impose a civil penalty on certain utilities that fail to comply with standard of services requirements in place on January 1, 2001 or willfully fail to comply with a final rate or service requirement. The bill allows the IURC to impose a fine of up to \$2,000 for each violation or failure. (Under current law, the IURC can only revoke a utility's certificate or permit or pursue a Class B infraction against an offending utility. A Class B infraction carries a maximum fine of \$1,000.) The Commission is required to consider mitigating factors such as, the size of the utility, the gravity of the offense, and the good faith of the utility in attempting to resolve the problem when assessing the appropriateness of the civil penalty.

The bill specifies that a utility may not be subject to both a civil penalty and a penalty reached through a settlement agreement for the same violation or failure. (The IURC currently has settlement agreements with two telecommunications companies and an agreement with a third telecommunications company is pending.)

IURC and OUCC Funding: The IURC and OUCC are funded from fees assessed on utilities equal to a percentage on their annual gross intrastate operating revenue. At the end of the fiscal year, if the total public utility fees in the Public Utility Fund plus the unspent balance of the Fund exceeds the total appropriations for the IURC and the OUCC (plus a \$250,000 contingency fund), then the IURC must compute each utility's share of the excess. This share is then deducted from any subsequent payment of the utility's public utility fees. In FY 2000, public utility fines and fees generated \$8,053,986.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Indiana Utility Regulatory Commission; Office of the Utility Consumer Counselor; Office of the Attorney General.

Local Agencies Affected:

Information Sources: Mike Leppert, Executive Director of External Affairs, IURC, (317) 232-2714.